

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PAUL SMITH,)	
)	
Plaintiff,)	08 C 1557
)	
v.)	Honorable Judge
)	James Zagel
COOK COUNTY SHERIFF, SUPT,)	
UNKNOWN OFFICERS,)	
COUNSELOR PUCKETT,)	
)	
Defendants.)	

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

NOW COMES Defendant Roy Puckett, by his attorney RICHARD A. DEVINE, State's Attorney of Cook County, through his assistant, SARAH M. BURKE, and hereby Answers Plaintiff's Complaint as follows:

1. Plaintiff was trying to mind his business once placed in Div. One After A Administration move from Div 11, waiting to be placed on the Peer Pressure and Support group tier.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1.

2. Plaintiff was returning from day room after noticing no office in/at his Post. Plaintiff looked down the catway and did not see A Officer to reassure the safety.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2.

3. Someone grabbed/attacked me from the side without warning. I was dizzy from the blow later on I was told it was a scrub brush from the shower.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3.

4. Not being able to maneuver for help I started filling someone grab me from behind, then the unquestable happen, I was poked twice in the face with a sharp object. What could have been a Ice Pick.

Answer: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 4.

5. I was punctured once above my left eye and once right below my bottom lip. Making my bottom two front teeth the only thing preventing a tongue or throat blow.

Answer: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 5.

6. The sergeant later stated someone Anonymous had got in touch with someone from the other wing, officer Post. After I had been stabbed twice.

Answer: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 6.

7. I was treated by medical personal and giving several stitch and Ice Packs for the swelling of my face and ears and head. Blood was just all over the place my Mom and Dad shook there head with Amazement.

Answer: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7.

8. Defendant couldn't eat for a number of days only drink water do to pain.

Answer: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 8.

9. Plaintiff made several attempts to be moved before being stabbed. Plaintiff notified counselor who had Plaintiff to file a grievance which he stated he had forward to division/supt. I still have the copy from Counselor Mr. Puckett.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 9.

10. Plaintiff also talked with Police/Sheriff telling him what had happened and Plaintiff need to be moved because they got knives on wing and might try to stab me.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 10.

11. But Police was not in day room Post. The Nature of obligation. If he was on Post. I would not have got stabbed.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11.

12. Plaintiff Aunt and Grandma called to try and have Plaintiff moved, day of stabbing.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 12.

13. Police Sheriff never allowed me to Pick the offenders out of the line up photo book as promised, I was sent to P.C. and never heard from anyone.

ANSWER: Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 13.

AFFIRMATIVE DEFENSES

NOW COMES Defendant Roy Puckett (hereinafter "Defendant"), through his attorney RICHARD A. DEVINE, State's Attorney of Cook County, by his assistant, Sarah M. Burke, and asserts the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

The Defendant's conduct was at all times objectively reasonable and did not violate any of Plaintiff's clearly established Constitutional rights. Accordingly, the Defendant is entitled to the defense of Qualified Immunity.

SECOND AFFIRMATIVE DEFENSE

Defendant, Roy Puckett assert that he is a Public Employee as defined by *The Local Governmental and Governmental Employees Tort Immunity Act*, 745 ILCS 10/2-214, *et. seq.*(1989), and is protected by the immunities and defenses provided for therein.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff failed to exhaust his administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). See *Massey v. Helman* 196 F.3d 727 (7th Cir. 1999) and *Pavey v. Conley* 528 F.3d 494 (7th Cir. 2008).

JURY DEMAND

Defendant respectfully request a trial by jury.

WHEREFORE, based upon the forgoing, the Defendant respectfully requests that this Honorable Court grant judgment in his favor and against the Plaintiff on all aspects of his Complaint and further requests this Honorable Court grant them fees, costs and such other relief that this Court deems just and appropriate.

Respectfully submitted,

RICHARD A. DEVINE

State's Attorney of Cook County

By: /s/Sarah M. Burke

Sarah M. Burke

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